



MAGISTRATE JUDGE GERALDINE SOAT BROWN

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Chambers 1822

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STANDING ORDER FOR SETTLEMENT CONFERENCE

The Court believes that the parties should fully consider settlement at the earliest reasonable opportunity in the case. Even if the case cannot be settled, early consideration of settlement often can result in focusing the issues to be litigated– which can save the parties considerable time and money.

A settlement conference requires serious and thorough preparation. This Order sets out the procedures the parties are to follow in preparing for the settlement conference, and the procedures that the Court typically will employ in conducting the conference. Counsel must provide a copy of this Order to their clients, and discuss these procedures with them prior to the settlement conference.

INITIAL STATUS HEARING

In most cases, Judge Brown will hold an initial status hearing to set the date for the settlement conference and the dates for the exchange of pre-conference letters. **Counsel primarily responsible for representing the parties must attend the status hearing and bring their calendars.** Often Judge Brown will discuss with counsel preliminary matters for the settlement conference, such as whether there is additional information that must be exchanged before a settlement conference can be useful, or whether the parties have engaged in previous settlement discussions. Counsel will also be expected to name on the record the individuals who will be present on behalf of their respective parties.

All parties and their lead counsel are **ORDERED TO APPEAR** at the Dirksen Federal Building, 219 South Dearborn Street, Courtroom #1812, Chicago, IL on the date and time set for the settlement conference.

SETTLEMENT CONFERENCE PREPARATION

1. **PRE-SETTLEMENT CONFERENCE LETTERS.** Before the conference, the parties must exchange their settlement positions in writing. The letters also provide Judge Brown information she needs to assist the parties in exploring settlement. Accordingly, at the initial status hearing Judge Brown will set a schedule for the exchange of pre-conference letters. The plaintiff's counsel's letter shall set forth at least the following information: (a) a brief summary of the evidence and legal principles that plaintiff asserts will allow it to establish liability; (b) a brief explanation of why damages or other relief would appropriately be granted at trial; (c) an itemization of the damages plaintiff believes can be proven at trial, and a brief summary of the evidence and legal principles supporting those damages; and (d) a settlement demand. The defendant's counsel's responsive letter shall set forth at least the following information: (a) any points in plaintiff's letter with which the defendant *agrees*; (b) any points in plaintiff's letter with which defendant *disagrees*; and (c) a settlement offer. Each of these letters typically should be five pages or fewer. Plaintiff's counsel shall fax or deliver copies of these letters to Judge Brown's Courtroom Deputy (Room 1808) no later than the date set at the initial status hearing, so that Judge Brown can review them in advance of the conference. **DO NOT FILE COPIES OF THESE LETTERS IN THE CLERK'S OFFICE.** Counsel must provide his/her client with the opposing party's letter prior to the settlement conference.
2. **ATTENDANCE OF PARTIES REQUIRED.** Unless the Court allows otherwise by separate order, *parties with full settlement authority are required to attend the conference in person.* If a party is an individual, that individual must personally attend; if a party is a corporation or governmental entity, a representative of that corporation or governmental entity (other than counsel of record) with full settlement authority must personally attend; and if a party requires approval by an insurer to settle, then a representative of the insurer with full settlement authority must attend in person. The Court strongly believes that the personal presence of the parties, and their direct participation in the discussions and "give and take" that occur, materially increases the chances of settlement. Thus, absent a showing of unusual and extenuating circumstances, the Court will not permit a client or an insurance adjuster merely to be available by telephone. In the event that extenuating circumstances arise, counsel shall contact opposing counsel and the Court's chambers immediately so that appropriate arrangements can be made. **All participants in the settlement conference must stay until 5:00 p.m. (Chicago time), unless the Court terminates the conference earlier.**
3. **FULL SETTLEMENT AUTHORITY.** The Court reserves a substantial block of time for each settlement conference. The Court's time is wasted and opposing parties incur unnecessary expense if a party comes to the settlement conference with limited authority. "Full settlement authority" means that **the person present at the settlement conference must be the decision maker.** He or she must have *both* authority to make a final and binding settlement *and* authority to make the decision to the last offer or demand. It does not require that any party make any particular offer or demand, but it does require that the person who is personally present be fully authorized to make the decision to the last offer or demand without having to get additional authorization from any person not present at the conference. A party who comes to a settlement conference without full settlement authority may be sanctioned. If a conference must be adjourned so that a party may obtain additional authority, that party may be sanctioned, including, but not limited to, the opposing party's

attorney's fees incurred by the need to reconvene.

4. **CONFERENCE FORMAT.** The Court generally will follow a mediation format: that is, each side will make an opening presentation to the other side, which will be followed by joint discussion with the Court and private meetings by the Court with each side. The Court expects both the lawyers and the party representatives to be fully prepared to participate in the discussions. In these discussions, the Court encourages all parties to be willing to reassess their previous positions, and to be willing to explore creative means for resolving the dispute.
5. **CONFIDENTIALITY.** The pre-conference letters required by this Order and the settlement conference are governed by Local Rule 83.5 relating to Confidentiality of Alternative Dispute Resolution Proceedings. The Court expects the parties to address each other with courtesy and respect, but also to speak frankly and openly about their views of the case.
6. **THE PARTIES SHOULD BE PREPARED TO DISCUSS THE FOLLOWING AT THE SETTLEMENT CONFERENCE:**
 - a. What are your objectives in the litigation?
 - b. What issues (in and outside of this lawsuit) need to be resolved? What are the strengths and weaknesses of your case?
 - c. Do you understand the opposing side's view of the case?
 - d. What are the impediments to settlement?
 - e. What remedies are available through litigation or otherwise?
 - f. Are there possibilities for creative resolution of the dispute?
 - g. Do you have adequate information to discuss settlement? If not, how will you obtain sufficient information to make a meaningful settlement discussion possible?
 - h. Are there outstanding liens? Do we need a representative of the lienholder at the settlement conference? If Medicare has paid any of the plaintiff's medical expenses, does the plaintiff have a conditional payment letter from Medicare identifying the amounts Medicare has paid for which it will seek reimbursement?

ANY PARTY WHO WISHES TO VARY ANY OF THE PROCEDURES SET FORTH IN THIS STANDING ORDER SHOULD MAKE AN APPROPRIATE REQUEST TO THE COURT AT THE INITIAL STATUS HEARING.

**ENTER:
GERALDINE SOAT BROWN
United States Magistrate Judge**